



EPA Region 5 Partially Disapproves Minnesota’s 303(d) List in Response to Tribal Trust Resource Concerns

Nancy Schuldt, Fond du Lac Band of Lake Superior Chippewa; NTWC Member

Tribes in the upper Great Lakes Basin have long relied upon the sustainable harvest of wild rice, known as *manoomin* in Anishinaabemowin (Ojibwe language). This annual grass species figures prominently in the Ojibwe migration story, as prophecies led the people to the place where “the food grows up out of the water”. It is a unique and remarkable natural and cultural resource: exceptionally nutritious (for humans and wildlife), an indicator of high quality aquatic ecosystems, and essential to the preservation of traditional lifeways, language, and culture. If it were to disappear, the Ojibwe people would cease to exist. And it has been significantly diminished across its historic range, now growing abundantly only in Minnesota, northern Wisconsin, and areas in Michigan (primarily where tribes are actively restoring it).

For decades, the state of Minnesota, and two Minnesota tribes, have had an approved water quality criterion for sulfate (10 mg/l) specifically for the protection of wild rice. This criterion was based upon significant historic biological survey work by a state biologist in the 1940s, but has not been substantially implemented or enforced by the state because of

legal challenges and resistance by industry. Tribes have supported extensive experimental research that has yielded significant understanding about wild rice ecology, and specifically how high sulfate loadings can contribute to wild rice population declines and eventual extinction. Recent state rulemaking, at the direction of the legislature, attempted to change the water quality standards around wild rice, but an administrative law judge found the proposed rule revisions were not consistent with state or federal water quality statutes, were not protective of wild



Floating leaf state



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rice, and ignored tribal knowledge and clearly communicated substantive concerns through formal and informal consultation.

Minnesota tribes, both Ojibwe and Dakota, have been increasingly speaking with a unified voice for the protection of *manoomin* (*psinj* in Dakota language): requesting government-to-government consultation with state leaders, providing public testimony, submitting detailed technical comments and legal arguments, creating a tribal wild rice task force that provided recommendations on regulatory and management actions for wild rice, and continuing to advocate for full implementation of all Clean Water Act protections by the state (i.e., robust and collaborative monitoring and assessment, permit limits in state-issued NPDES permits, antidegradation demonstrations, and listing of impaired wild rice waters). Tribes also engaged with EPA Region 5 over the past 15 years, urging stricter oversight of the state's delegated authorities, requesting consultation, and consistently elevating and articulating our concerns about wild rice in the context of federal trust responsibility. Many of the wild rice waters in Minnesota lie within lands ceded under treaties to the federal government, but with signatory tribes retaining perpetual rights to hunt, fish and gather within those lands and waters. Those reserved treaty rights have been adjudicated and upheld by the U.S. Supreme Court.



Left: Tribal members ricing in the traditional way; Right: Tribal wild rice restoration activities

After filing detailed critical technical comments every two years since 2010 about the failure of the Minnesota Pollution Control Agency to list impaired wild rice waters on the state's Section 303(d) lists, early this year Minnesota tribal leaders turned to EPA Region 5 and urged them to exercise their federal oversight, and take action after years of waiting for the state agency to fulfill their CWA obligations. After formal consultation between tribal leaders and staff, and EPA Regional managers and counsel, EPA Region 5 came to a decision on March 26, 2021 to partially disapprove the state's 303(d) list for its failure to include impaired wild rice waters. This decision has since been followed by Region 5's publication of a draft impaired wild rice waters list, currently open for public comment: [Public Notice of EPA's Additions to Minnesota's 2020 Impaired Waters List | Clean Water Act Section 303\(d\): Impaired Waters and Total Maximum Daily Loads \(TMDLs\) | US EPA](#)

Following this decision, the tribal leaders again requested consultation with EPA Region 5 and EPA Headquarters, seeking assurances that tribal knowledge and input would be fully considered as the draft impaired wild rice waters list was vetted publicly and ultimately finalized. This decision marks a clear turning point in Minnesota tribes' long battle to ensure this invaluable and irreplaceable cultural and natural resource is fully protected under the Clean Water Act, and that it can be sustained for the generations to come.

For more information: [FDL Resource Management - Environmental - Water Programs \(fdlrez.com\)](https://fdlrez.com)

Updates and Announcements

National Tribal Water Council is Seeking Applications for New Members

The National Tribal Water Council is currently accepting applications from tribal water professionals to fill two (2) open membership positions:

- **Region 2 Representative:** Open to tribal water professionals employed by a federally recognized Tribe or tribally authorized organization from Region 2, which includes the following states: New Jersey and New York.
- **Region 10 Representative:** Open to tribal water professionals employed by a federally recognized Tribe or tribally authorized organization from Region 10, which includes the following states: Alaska, Idaho, Oregon, and Washington.

Member duties include but are no limited to:

- Reviewing and discussing water-related issues in Indian Country
- Assisting the NTWC in informing tribes on a wide variety of water issues
- Participating in crafting response documents to policy and/or rulemaking actions
- Participating in monthly conference calls and attending bi-annual meetings

We are seeking individuals that are passionate and vocal about tribal water issues. Interested candidates must submit an application form, letter of interest and professional resume. The application deadline is August 13, 2021. For additional information, the application packet is available on the NTWC website: <http://www7.nau.edu/itep/main/ntwc/>

For California Tribes: Tribal Drinking Water Workshops

The California State Water Board invites California Native American Tribes to attend upcoming workshops on the Safe and Affordable Funding for Equity and Resilience (SAFER) drinking water program. The workshops will also discuss the opportunity to include tribal drinking water data in the statewide water system needs assessment. The workshops are scheduled based on location.

- Central California: June 8, 2021 (9:00 – 11:00 AM)
To access: <http://bit.ly/SAFERCenCal> Meeting ID: 939 4571 6911
- Northern California: June 17, 2021 (9:00 – 11:00 AM)
To access: <http://bit.ly/SAFERNorcal> Meeting ID: 924 7984 3220
- Southern California: June 22, 2021 (2:00 – 4:00 PM)
To access: <http://bit.ly/SAFERSoCal> Meeting ID: 958 1007 1223

For more information, please visit: waterboards.ca.gov/safer/

American Indian Environmental Office's Informational Webinar on EPA's Consultation and Coordination with Indian Tribal Governments Plan

On January 26, 2021, President Biden issued a memorandum that directs federal agencies to submit a detailed plan to implement the policies and directives of E.O. 13175. The EPA American Indian Environmental Office held two national webinars to provide a summary of the plan and to hear additional comments.

For more information, please visit: [Federal Register :: Consultation and Coordination With Indian Tribal Governments](#)

Tribal Consultation and Public Comment Opportunities

Public Comment Opportunity: Revised Lead and Copper Rule

Ends: June 30, 2021

The U.S. Environmental Protection Agency (EPA) is extending the effective date of the Revised Lead and Copper Rule to seek further public input. The purpose of this additional time is to enable EPA to take public comment on a second action that would provide a longer extension of the effective date and for EPA to undertake its review of the rule.

The second action proposes to extend the effective date until December 16, 2021 and also proposes a corresponding extension of the revised LCR's compliance deadline to September 16, 2024. This action would ensure that drinking water systems and primacy states continue to have the full three years provided by the SDWA to assure regulatory compliance. The comment period is now closed.

The EPA will host a virtual Tribal Roundtable regarding the LCR revisions in mid-July. This will be a facilitated discussion of topics related to the revised lead and copper rule among participants who represent tribes and tribal communities including, but not limited to, tribal governments, public water utilities serving Indian country, tribal consortia, and tribally authorized organizations. To stay up-to-date, please visit: [Lead and Copper Rule Revisions Virtual Engagements](#) | [Ground Water and Drinking Water](#) | [US EPA](#)

To comment, please submit comments by June 30, 2021, through Docket ID No. EPA-HQ-OW-2021-0255 at <https://www.regulations.gov>

Tribal Consultation Opportunity: Guidance for Assessing Chemical Contaminant Data for Use in Fish Advisories, Volume 4 Risk Communication

Ends: July 15, 2021

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally recognized Indian Tribes and requesting comments on guidance for assessing chemical contaminant data for use in fish advisories, volume 4 risk communication. This guidance provides tribes, states, and territories information on how to develop, implement, and evaluate a risk communication program in order to have clear and effective risk communication methods for fish and shellfish advisories.

The deadline to submit comments is July 15, 2021. For additional information, please visit <https://tcots.epa.gov> for the consultation materials. To read the guidance, please visit: [Develop Risk Communication Programs for Fish and Shellfish Consumption Advisories](#) | [Advisories and Technical Resources for Fish and Shellfish Consumption](#) | [US EPA](#)

Grant Opportunities

U.S. Fish & Wildlife Tribal Wildlife Grants Program

Deadline: June 18, 2021

The U.S. Fish & Wildlife Tribal Wildlife Grants are used to provide technical and financial assistance to Tribes for the development and implementation of programs that benefit fish and wildlife resources and their habitat. Activities may include but are not limited to: planning for wildlife and habitat conservation, fish and wildlife conservation and management actions, fish and wildlife related laboratory and field research, habitat mapping, habitat preservation, and public education that is relevant to the project.

The deadline to submit an application is June 18, 2021. For more information, please visit: [View Opportunity | GRANTS.GOV](#) or [Fish and Wildlife Service - Native American Liaison \(fws.gov\)](#)

Events and Webinars

Native American Water Association

The Native American Water Association is a non-profit organization that provides tribal water and wastewater operators, managers, utility commissions and tribal leadership with training and technical assistance.

Upcoming training:

- SBR System Inhibition, Toxicity, and Recovery: June 2, 2021 (9:00 AM MST)

For more information and to register, please visit: [Native American Water Association Events | Eventbrite](#)

Inter Tribal Council of Arizona, Inc. - National Tribal Water & Wastewater Operator Training & Certification Program

The Inter Tribal Council of Arizona, Inc. National Tribal Water and Wastewater Operator Training and Certification Program is providing live online training. Each course consists of sequential lessons that are provided in a series of live online classes that are 3-hours in length.

Upcoming courses include, but are not limited to:

- Water Distribution – Level 1: July 19 to August 23, 2021

For more information, training schedule, and to register, please visit: <https://itcaonline.com/programs/environmental-quality-programs/tws-tmap/tws-training-events/>

North Central Climate Collaborative

The North Central Climate Collaborative is hosting a free advanced climate change virtual conference on June 8-10, 2021 from 9:00 AM to 12:00 PM CST. Session topics include climate modeling, climate and its impacts on communities, and the intersection of climate, agriculture, and water.

To register, please visit: [Advanced Climate Topics Virtual Conference - North Central Climate Collaborative](#)

Native American Fish and Wildlife Society

- July 28, 2021: Asian Carp Update & Management Plan

For more information, please visit: [Asian Carp Update & Management Plans - Native American Fish and Wildlife Society \(nafws.org\)](#)

EPA Small Systems Monthly Webinar Series

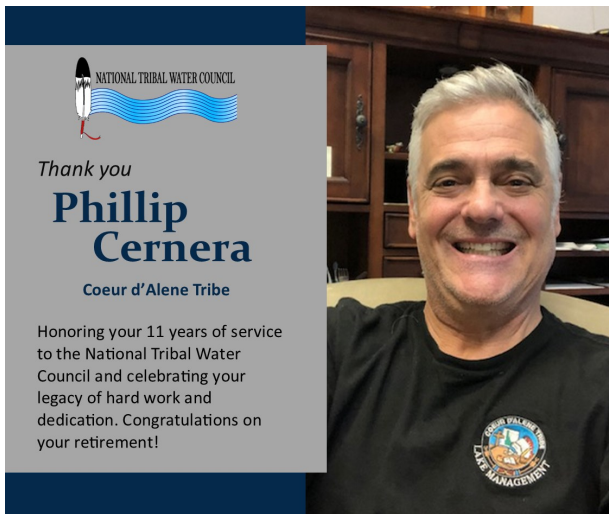
- June 29, 2021: Tribal Community Water Systems
- July 27, 2021: Drinking Water Microbes 102

For more information, please visit: <https://www.epa.gov/water-research/small-systems-monthly-webinar-series>

EPA Water Research Webinar Series

- June 30, 2021: Approach to Track Chemical Mixtures in Urban Waters Impacted by Road Salts

For more information, please visit: <https://www.epa.gov/water-research/water-research-webinar-series>



NTWC Thanks Rene Rickard and Phillip Cerna for their Service

At the end of 2020, Rene Rickard submitted her resignation from the National Tribal Water Council. Rene is the Tuscarora Administrator for the Haudenosaunee Environmental Task Force at Hogansburg, New York (Region 2). She was a NTWC member for the past 10 years. NTWC thanks Rene for her contribution to the Council.

At the end of April, Phillip Cerna submitted his resignation from the NTWC. Phillip is the Director of the Coeur d'Alene Tribal Lake Management Department at Coeur d'Alene, Idaho (Region 10).

NTWC Members: For more information, visit [Meet the Council](#)

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